



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,208	04/12/2004	John Hill	JH-1	4057

40023 7590 07/01/2005

DAVID M. CARTER  
CARTER SCHNEDLER & MONTEITH, P.A.  
56 CENTRAL AVENUE, SUITE 101  
P.O. BOX 2985  
ASHVILLE, NC 28802

EXAMINER

KING, ANITA M

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/823,208

Applicant(s)

HILL ET AL.

Examiner

Anita M. King

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 14-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-13 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

This is the first office action for application number 10/823,208, Method and Apparatus for Holding and Positioning a Pipe During the Installation thereof, filed on April 12, 2004.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13, drawn to an apparatus for enabling an elongated pipe to be installed, classified in class 248, subclass 62.
- II. Claims 14-21, drawn to method for installing a pipe, classified in class 29, subclass 281.5.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the apparatus can be used to hang cables and wires from an overhead surface.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with David Carter on June 24, 2005 a provisional election was made without traverse to prosecute the invention of an apparatus, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action.

Art Unit: 3632

Claims 14-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 7, and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,019,705 to Habuda, Sr. et al., hereinafter, Habuda. Habuda discloses an apparatus (10) for enabling an elongated pipe to be installed below a ceiling, comprising: a first jaw (241 or 341), the first jaw adapted to temporarily support one end of the pipe (P); a fastener (11), the fastener for removably securing the apparatus; an extension device (60), the extension device connecting the jaw to the fastener; a second jaw (241 or 341); at least one of the jaws being rotatable; a connection member (233 or 347), each jaw being curved and each jaw having a first end and a second end; the first ends of each jaw connected to the connection member; the second ends of each jaw removably connected to one another; wherein the fastener includes a clamp; wherein the clamp is a "C" clamp

Art Unit: 3632

adapted to be fastened to a ceiling joist; wherein the fastener includes a boss having a hole there through for slidably receiving the extension device whereby the distance from the ceiling to the jaw may be adjusted; wherein the connection member includes a threaded hole for receiving one end of the extension device, the one end of the extension device being threaded whereby fine adjustments for distance between the ceiling and the jaws may be made; and wherein the extension device is in the form of an elongated rod.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,572,623 to Lapp in view of U.S. Patent 2,997,767 to Grover et al., hereinafter, Grover. Lapp discloses an apparatus for enabling an elongated pipe (6) to be installed below a ceiling, comprising: pipe member (7); a fastener (10); and an extension device (8) connecting the pipe member to the fastener.

Lapp discloses the claimed invention except for the limitations of a first jaw and a second jaw and at least one jaw being rotatable. Grover teaches a clamping device including a first jaw (26) adapted to temporarily support one end of a pipe (14d), an extension device (23); and a second jaw (27), wherein at least one of the jaws is rotatable. It would have been obvious to one having ordinary skill in the art at the time the invention

Art Unit: 3632

was made to have modified the pipe member in Lapp to have included first and second jaws as taught by Grover for the purpose of quick-acting and easily engageable clamping device supporting a tubular member overhead.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lapp combined with Grover and in further view of U.S. Patent 572,770 to Putnam. Lapp combined with Grover disclose the claimed invention except for the limitations of the second ends of the jaws removably connected to one another and the first jaw is bifurcated and including a plurality of holes. Putman teaches a clamp having a first jaw (C) including a connection member (A), each jaw being curved and each jaw having a first end and a second end, the first ends of each jaw connected to the connection member, the second ends of each jaw removably connected to one another, the first jaw is bifurcated and including a pair of curved elements forming a gap, the second end (F) of the second jaw (D) received in the gap at the second end of the first when the jaws are closed. It would have been obvious to one having ordinary skill in the art at have modified the clamp in Lapp combined with Grover to have included the clamp as taught by Putman for the purpose of providing a means for preventing unwanted disengagement of the pipe from the clamp during installation.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Habuda in view of U.S. Patent 3,302,911 to Bender. Habuda discloses the claimed invention except for the limitation of the clamp being an "O" clamp. Bender teaches a pipe hanger having an extension rod (1) a fastener (6) including a clamp, and wherein the clamp is an "O" clamp, the "O" clamp adapted to be fastened to the pipe (P). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified

Art Unit: 3632

the clamp in Habuda to have included the "O" clamp as taught by Bender for the purpose of providing an alternative clamping means for hanging a pipe from an overhead structure.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Habuda in view of U.S. Patent 8,44,036 to McMurtrie. Habuda discloses the claimed invention except for the limitation of a support bracket. McMurtrie teaches a pipe hanger having an extension device (11) and a fastener (1) being a clamp and a pipe support bracket (10) and an additional pipe support bracket (15), the bracket including a hole therethrough for receiving the extension device and located between the additional pipe support and the fastener; and wherein the bracket includes a pair of grooves therein. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the apparatus in Habuda to have included the pipe bracket as taught by McMurtrie for the purpose of providing a means for supporting additional pipe in a plurality of directions and positions on the apparatus during usage on a single apparatus.

#### ***Allowable Subject Matter***

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 247,361 to Kane

U.S. Patent 497,512 to Beaton

Art Unit: 3632

U.S. Patent 535,707 to MacTaggart

U.S. Patent 1,966,899 to McCabe

U.S. Patent 2,161,782 to Flower

U.S. Patent 2,723,816 to Drysdale

U.S. Patent 3,866,871 to Dupuy, Sr.

U.S. Patent 4,570,885 to Heath

U.S. Patent 4,765,577 to Collins et al.

U.S. Patent 4,793,578 to Howard

U.S. Patent 5,501,544 to Cairns

U.S. Patent 6,390,421 to Rudd

Kane discloses a pipe-supporting hanger. Beaton discloses a pipe hanger having a pivoting clamp. MacTaggart discloses a clamp and hanger. McCabe discloses a pipe hanger having a pivotal jaw. Flower discloses a pipe hanger having an adjustable extension device. Drysdale discloses an article-supporting device having a pivotal clamping arm. Dupuy, Sr. discloses a pipe hanger for carrying a plurality of spaced pipes upon a single hanger. Heath discloses a hanger clamp body. Collins et al. disclose a pipe support. Howard discloses a system of threaded components for hanging and supporting multiple conduits lines from a support structure. Cairns discloses a three-piece clamping assembly. Rudd discloses a hanger for multiple pipes.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.



Art Unit: 3632

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anita M. King  
Primary Examiner  
Art Unit 3632

June 26, 2005